REMARKS

This is in response to the Office Action mailed September 25, 2003 in the above identified application. Reconsideration and allowance of the application is respectfully requested. Claims 1-19 are pending in this application. Claims 1, 2, 5-7, 9, and 11-19 stand rejected and claims 3, 4, 8, and 10 are objected to. Applicant gratefully acknowledges the indication of allowable subject matter in claims 3, 4, 8, and 10 but defers rewriting these claims in independent form until final resolution of the remaining claims is reached. In light of the amendments and remarks set forth below, applicant respectfully submits that each of the pending claims is in the immediate commission for allowance.

The disclosure is objected to because of typographical errors on pages 12, 27, and 33. These typographical errors have been corrected. No new matter has been added.

Claims 1, 2, 5-7, 9, 11-14, 17, and 18 are rejected under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent No. 6,606,593 ("Jarvinen"). Applicant request reconsideration and withdrawal of this rejection.

To anticipate a claim under 35 U.S.C. § 102, the cited reference must disclose every element of the claim, as arranged in the claim, and in sufficient detail to enable one skilled in the art to make and use the anticipated subject matter. See PPG Industries, Inc. v. Guardian Industries Corp., 75 F.3d 1558, 1566 (Fed. Cir. 1996); C.R. Bard, Inc. v. M3 Sys., Inc., 157 F.3d 1340, 1349 (Fed. Cir. 1998). A reference that does not expressly disclose all of the elements of a claimed invention cannot anticipate unless all of the undisclosed elements are inherently present in the

reference. See Continental Can Co. USA v. Monsanto Co., 942 F.2d 1264, 1268 (Fed. Cir. 1991).

Among the limitations of independent claim 1 not present in the prior art is changing the amplitude of an excitation signal using a calculated norm and a smoothed norm.

The Office Action equates the above limitation in applicant's claim with Jarvenin's excitation signal 212, which is formed by generating the white noise excitation sequence 114 using random excitation generator 110 which is then scaled in scaling block on 15.

Applicants respectfully disagree with this interpretation of Jarvenin. As shown in Fig. 2b of Jarvenin, the signal which is used is generated by a random excitation generator 110. The signal that is used is not the excitation signal and information on linear prediction coefficient from a received signal. Therefore, Applicant respectfully submits that the excitation signal whose amplitude is changed using the calculated and the smoothed norm as recited in the claim is not the signal output by the random excitation generator 110 disclosed in Jarvenin.

Claims 2-11 depend from and include all the limitations of claim 1 and are also directed towards patentable subject matter. As such, applicant respectfully request that the examiner allow such dependent claims.

Claim 12 also includes an excitation signal normalizing circuit for calculating a norm of said excitation signal for each fixed period. As discussed above, with reference to claim 1, the excitation signal in the present application is

derived from the coded data which is input to a code input circuit as shown in Fig. 5. The excitation vector is the output of the line spectrum power (LSP) decoding circuit.

In the Jarvenin reference, the excitation signal 212 is formed by generating a white noise excitation sequence 114 from random excitation generator 110. Thus, the excitation signal explicitly recited in applicants' claim is unlike the excitation signal disclosed in Jarvenin.

Claims 13-19 depend from claim 12. These claims are also directed to patentable subject matter which is neither disclosed nor suggested by the Jarvenin reference. Thus, these claims are also allowable over the cited reference.

The Office Action rejects claims 15, 16, and 19 under 35 U.S.C. § 103(a) being unpatentable over Jarvenin in view of U.S. Patent No. 6,415,253 ("Johnson"). Applicant respectfully request immediate consideration in withdrawal of this rejection.

To establish a *prima facie* case of obviousness, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify a reference or combine references to arrive at the claimed subject matter. The prior art references must also teach or suggest all the limitations of the claim in question. See MPEP § 706.02(j).A reference can only be used for what it clearly discloses or suggests. See In re Hummer, 113 U.S.P.Q. 66 (C.C.P.A. 1957); In re Stencel, 4 U.S.P.Q.2d 1071, 1073 (Fed. Cir. 1987). Here, the references, whether taken individually or in combination, do not disclose or suggest the invention claimed by the Applicant.

The Johnson reference was not included to cure the deficiencies discussed with reference to claim 12 above but to show additional features in the dependent claims. Whether or not Johnson shows these additional features is irrelevant as it fails to cure the deficiencies in Jarvenin discussed above. Thus, applicant respectfully request reconsideration and withdrawal of this rejection.

Applicant has responded to all of the rejections and objections recited in the Office reconsideration and Notice of Allowance for all of the pending claims is therefore respectfully requested.

The amendments to the claims are for clarification purposes only and are not intended to limit the scope of the claims in any way. It is asserted that the present amendment places the application in a form for allowance. Entry of this amendment is therefore earnestly solicited.

If the Examiner believes an interview would be of assistance, the Examiner is welcome to contact the undersigned at the number listed below.

Dated: December 24, 2003

Respectfully submitted,

By _____
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